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July 6, 1992

VIA FEDERAL EXPRESS

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Billed Party Preference for
0+ InterLATA Calls
Docket No. CC-92-77

Dear Ms. Searcy:

On behalf of the Florida Public Service Commission, please find enclosed an original and five copies of the Commission's Comments. An extra Copy is also enclosed with a stamped, self-addressed envelope; please date stamp and return.

Please contact me should you have any questions concerning this matter.

Sincerely,

William E. Wyrough, Jr.
Associate General Counsel

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drsfcc.cjp

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of Billed Party Preference for 0+ InterLATA Calls	))))	CC Docket No. 92-77

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Comments of the
Florida Public Service Commission

BACKGROUND

In its Notice of Proposed Rulemaking adopted April 9, 1992, and released May 8, 1992, The Federal Communications Commission (FCC) initiated a rulemaking proceeding to consider the merits of an automated "billed party preference" routing methodology for 0+ interLATA pay phone traffic and for other types of operator-assisted interLATA traffic. In its Notice the FCC tentatively concludes that, in concept, billed party preference routing of all 0+ interLATA calls is in the public interest. However, the FCC seeks further comment on the costs and benefits of billed party preference and how such a system should be implemented. The Florida Public Service Commission (FPSC), through its undersigned attorney, hereby files its comments in response to the FCC's billed party preference proposal.

INTRODUCTION

A uniform national dialing plan is in the public interest. Therefore, if it is economically feasible, all Local Exchange Carriers (LECs) should be required to implement the billed party preference system, and Part 68 of the FCC's rules should be amended to preclude traffic aggregators (location providers) and pay phone providers from using automatic dialing mechanisms to program their phones to dial-around billed party preference on operator-assisted calls. Dial-around can occur because the local telephone company switch must receive only the digits dialed by an end user for billed party preference to work. If an end user dials zero plus the number, but the call aggregator equipment sends 10XXX plus the number, then billed party preference will not occur because the call is routed directly to the call aggregator's preferred carrier.

I. BENEFITS AND COSTS OF BILLED PARTY PREFERENCE

Any consideration of the benefits and costs of implementing billed party preference should also include a review of the costs of not implementing it and the concomitant harm to the public interest. While it is not possible to measure the savings to both government and industry over the last several years if every operator-assisted call had been billed by the billed party's preferred carrier, it is clear that thousands of complaints would not have been filed at the federal and state levels and consumers would not have been overcharged untold millions of dollars.

Today, after Congress, state legislatures and regulatory agencies and the FCC have all, at substantial costs, adopted rules and policies to substitute for billed party preference, the FPSC continues to receive complaints of blocking and overcharging. In three formal proceedings before the Florida Public Service Commission in the last six months overcharges by operator service providers and call aggregators of more than $2,000,000 were at issue. Also during the past six months 116 blocking violations have been addressed through our call aggregator inspection program and 46 informal complaints have been received about blocking and/or overcharging. Thus, there is a substantial ongoing cost associated with allowing the manipulation of consumer's calls through auto dialer mechanisms and not implementing a uniform national dialing plan and billed party preference.

With respect to consumer attitudes and acceptance of access code dialing, even knowledgeable consumers will continue to be confused when an access code does not work from some phones and does from others. FPSC experience in this area includes the following examples:

> A. Our service evaluations revealed that some call aggregators who presubscribe to AT&T nevertheless block 10288-0. Consumers are therefore left with a trial and error process to complete calls which with implementation of billed party preference would be automatically processed. We believe therefore that even knowledgeable consumers must routinely dial a call more than once just to assure that they have the correct company. The time lost to the public and the cost of abandoned attempts on the network must therefore be a consideration.

B. In many cases the posted notice identifying the operator service provider is in error, especially where there has been a recent change.

C. Callers who have dialed 00 to ensure that they know the presubscribed carrier have been surprised to find that their preferred operator service answers to 00. But, when they dial zero plus the number (to obtain advertised discounts), their calls are diverted by the call aggregator via store and forward technology to an unwanted provider at rates higher than expected.

D. Some call aggregators intercept certain access code calls in an attempt to stop them and encourage use of another operator services provider. This relatively new practice adds to the caller's confusion.

E. Consumers have recently complained of being billed for local and intrastate calls in short mileage bands at nearly $3.00 per minute from ordinary looking pay phones. An investigation revealed that clearinghouse A was billing for operator service provider B who was billing for cellular pay phone provider C. In another example, clearinghouse A billed for operator service provider B who billed for store and forward vendor C who billed for hotel D.

In the last example none of the participants was actually involved in the transmission of the call. There was no obvious benefit to the end user who gave up trying to obtain a refund from any one of the five participants to the call. Consumers (and regulators) will remain confused as this scenario continues unless billed party preference is uniformly implemented.

II. ISSUES RELATING TO IMPLEMENTATION OF BILLED PARTY PREFERENCE

If the FCC concludes that billed party preference for certain operator-assisted calls is in the public interest, then all LECs should be required to implement the system for such calls. Part 68 of the FCC rules should be amended to preclude traffic aggregators and pay phone providers from using automatic dialing mechanisms to program their phones to dial around billed party preference on operator-assisted calls. Accordingly, just as maintaining the current dialing chaos will continue to confuse consumers, implementing billed party preference on a partial basis will only exacerbate the cost and inconvenience to consumers of not having a uniform national dialing plan.

The FCC has begun a process to compensate private pay telephone providers for use of their instruments. In its Second Report and Order released May 8, 1992, in the matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, the FCC prescribed a rate and mechanism for compensating competitive pay phone owners for originating interstate access code calls. The FCC prescribed that competitive pay phone owners receive $6 per phone per month from interexchange carriers that earn annual toll revenues in excess of $100 million and provide live or automated operator services. LECs were ordered to provide each operator service provider responsible for compensation with a quarterly list showing all customer-owned coin-operated telephone lines in their service areas. These actions were taken to ensure that pay phone owners receive fair compensation when callers exercise their option to use an operator service provider other than the provider presubscribed to a competitive pay phone line.

Call aggregators, on the other hand, are able to receive compensation for the use of their equipment directly from operator services providers who impose surcharges on transient end user's home or business telephone bill. However, these call aggregators currently have alternative means at their disposal to recover their costs for providing telephone equipment. For instance, hotels clearly have the ability to recover their costs through their room rates, or through surcharges added to the bill at checkout. Therefore, implementation of billed party preference will not preclude such call aggregators from charging whatever they deem appropriate for provision of the telephone equipment used by their guests.

With respect to the types of calls for which billed party preference should be implemented, all interLATA 0+ and 0- traffic should be routed via billed party preference. This should apply from all pay telephones and all call aggregator telephones, except certain confinement facilities where added administrative control of telephone traffic is appropriate.

Zero-plus carrier selection for RBOC and GTE pay phones has been substantially completed through the pay telephone balloting mandated by the D.C. Circuit Court overseeing the Modified Final Judgement. A number of independent LECs have also already completed balloting their pay telephones. This same balloting process should work for the remaining call aggregators. However, certain pay telephone providers and call aggregators that use internal auto dialing capability within their equipment to alternatively route 0+ calls will have to discontinue this practice and select, through the LEC, their true operator service provider. Also, in certain cases, competing operator service providers may not currently subscribe to LEC provided Feature Group D service. In such isolated cases the operator service provider would need to purchase Feature Group D access or reach an accommodation with another carrier to process its calls.

Commercial credit card and foreign-issued calling card users could be provided a choice by the LEC operator of available operator service providers willing to accept such traffic. Alternatively, arrangements are typically available from the hospitality industry to charge calls to guest rooms. In such a scenario, the commercial credit card user may reimburse the hotel/motel for the call or seek out a pay telephone which accepts commercial credit cards.

SUMMARY

The FPSC agrees with the FCC's tentative conclusion that, if economically feasible, billed party preference should be implemented nationwide and call aggregators should be prohibited from using automatic dialing mechanisms to dial-around billed party preference on operator-assisted calls. In determining whether implementation of billed party preference is economically feasible, the FCC should fully consider the substantial ongoing costs and confusion to industry, consumers, and various levels of government of not adopting a user-friendly uniform national dialing plan by implementation of billed party preference.

Respectfully submitted,

WILLIAM E. WYROUGH, JR.
Associate General Counsel

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Dated: July 2, 1992

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